

Appl. No 09/889,106
Amdt. Dated July 23, 2003
Reply to Office action of Jan. 23, 2003

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REMARKS

Claims 1-50 were pending in this application. Claims 30-50 were withdrawn from consideration by the Examiner, as directed to non-elected subject matter. The Applicants have amended claims 1, 18, 26 and 28. The Applicants have also canceled claims 10 and 25 without prejudice or disclaimer. The Applicants hereby reserve the right to prosecute any canceled subject matter at a future date.

Claim 1 has additionally been amended to clarify the scope of the claims. Specifically, the terms "C₃₋₈ alkenyl", "C₃₋₈ alkynyl", "C₃₋₄ alkenyl", and "C₃₋₄ alkynyl" have been amended to read "C₂₋₈ alkenyl" and "C₂₋₈ alkynyl", "C₂₋₄ alkenyl", and "C₂₋₄ alkynyl". The Applicants respectfully submit that this revision does not add new subject matter to the claims. Basis for the amendment can be found, but is not limited to, the specification at page 7, lines 3-4, and compounds 7 and 8 in Scheme 2.

Upon entry of the present amendment, claims 1-9, 11-24 and 26-29 remain pending in this application.

I. Rejection under 35 U.S.C. § 102(b)

The Office has rejected claims 1-22 under 35 U.S.C. 102(b) as being anticipated by Bailey, DM (US Patent No. 4,510,139). Specifically, the Office states that the '139 patent discloses many substituted amino benzamide compounds, one of which anticipates the instantly claimed compound wherein W is OR₁, R₁ is H, each of R₄, R₅ and R₆ is independently H, R₁₀ and R₁₁ are H, J is OR_c, and R_c is alkyl.

To expedite the prosecution of the present application, the Applicants have deleted the substituent "OR_c" from the definition of J, without prejudice or disclaimer. Upon entry of the

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present amendment, the Applicants respectfully submit that the '139 patent does not anticipate the present invention. The claimed invention does not include compounds wherein J is OR_C.

As such, the Applicants respectfully submit that the rejection of claims 1-22 under 35 U.S.C. 102(b) has been overcome and respectfully request withdrawal of the present rejection.

II. Rejection Under 35 U.S.C. § 103(a)

The Office has rejected claims 1-22 under 35 U.S.C. § 103(a) as being unpatentable over Bailey, DM (US Patent No. 4,510,139).

As discussed above in Section I, the Applicants have deleted the substituent "OR_C" from the definition of J to expedite the prosecution of the present invention. Upon entry of the present amendment, the Applicants respectfully submit that the rejection of claims 1-22 under 35 U.S.C. § 103(a) has been rendered moot. In the alternative, as a result of the revisions to claim 1 of the present invention, the Applicants respectfully submit that there is no teaching, suggestion or motivation to modify the '139 patent to produce the claimed invention.

In light of the foregoing, the Applicants respectfully submit that the present rejection has been overcome and request that the rejection under 35 U.S.C. 103(a) be withdrawn.

III. Claim Objections

The Office has objected to claims 1, 10, 18 and 25-28 for containing non-elected subject matter. In response, the Applicants have amended claims 1, 10, 18, 25-26 and 28 to exclude the non-elected subject matter. The Applicants were unable to identify the subject matter to be deleted from claim 27, and as such, claim 27 has not been amended. Any assistance that could be provided by the Office would be appreciated.

The Office has also objected to claims 23, 24 and 29 as being dependent upon a rejected base claim 1. The Applicants respectfully submit that the revisions to claim 1, which are included in the present amendment place claim 1 in condition for allowance and, as such, claims 23, 24 and 29 have not been rewritten at this time.

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VII. Conclusion

Upon entry of the present amendment, the Applicants submit that this application is now in condition for allowance, which allowance is respectfully solicited.

If the Examiner believes that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at 734-622-2658.

Respectfully submitted,

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